IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 25TH OCTOBER 2007 / 3RD KARTHIKA 1929

WP(C).No. 27266 of 2003(U)

PETITIONER:

P.R.KRISHNAKUMARIAMMA,
PROFFESSOR (RETIRED), COLLEGE OF AGRICULTURE,
PADANAKKAD P.O., NEELESWAR.

BY ADV. SRI.P.SANTHALINGAM,
ADV. SRI.S.SHARAN.

RESPONDENTS:
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1. **KERALA AGRICULTURAL UNIVERSITY,**
   VELLANIKKARA, THRISSUR, REPRESENTED BY ITS
   REGISTRAR.

2. **VICE CHANCELLOR,**
   KERALA AGRICULTURAL UNIVERSITY, THRISSUR.

3. **MINISTER OF AGRICULTURE,**
   SECRETARIAT, THIRUVANANTHAPURAM.

4. **EXECUTIVE COMMITTEE,**
   KERALA AGRICULTURAL UNIVERSITY,
   REP. BY ITS CHAIRMAN.

BY ADV. SRI.RENJITH THAMPAN, SC, K.A.U.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 25/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.27266/2003-U:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE ORDER NO. GA (1)26880/75 DTD. 16/09/1975 ISSUED BY THE R.1.

EXT.P.2: COPY OF THE APPOINTMENT ORDER NO. GA (1) 44313/76 DTD. 21/06/1976 ISSUED BY THE R.1. TO THE PETITIONER.

EXT.P.3: COPY OF THE ORDER NO. GA (1)-11786/76 DTD. 22/07/76 ISSUED BY THE R.1.

EXT.P.4: COPY OF THE LETTER NO. A 2024/70 DTD. 23/10/1979 ISSUED BY THE ASSOCIATE PROFESSOR (BOT.) AGRICULTURAL UNIVERSITY TO THE R.1.

EXT.P.5: COPY OF THE RELEVANT EXTRACT OF THE NOTIFICATION NO. SS (2) 45127/78 DTD. 20/09/1978 PUBLISHED IN MALAYALA MANORAMA DALY DTD. 04/10/1978, ISSUED BY THE R.1.

EXT.P.6: COPY OF THE LETTER NO. R5-1189/84/L. DIS. DTD. 07/03/1984 ISSUED BY THE DIRECTOR OF RESEARCH, AGRICULTURAL UNIVERSITY TO THE PETITIONER.

EXT.P.7: COPY OF THE ORDER NO. GA/C2/24350/85/L. DIS. DTD. 16/01/89 ISSUED BY THE R.1. TO THE PETITIONER.

EXT.P.8: COPY OF THE ORDER NO. GA/C2/6814/89/D. LIS. DTD. 24/07/90 ISSUED BY THE R.1. TO THE PETITIONER.

EXT.P.9: COPY OF THE LETTER NO. GA/C2/37962/90 DTD. 25/10/1990 OF THE R.1. TO THE PROFESSOR AND HEAD HRS, MONCOMPU, COPY TO PETITIONER.

EXT.P.10: COPY OF THE REPRESENTATION DTD. 26/10/1990 SUBMITTED BY THE PETITIONER TO THE R.1.

EXT.P.11: COPY OF THE RELEVANT EXTRACT OF THE REPRESENTATION DTD. NIL. SUBMITTED BY N. RAMA BAI, WORKING AS JR. INSTRUCTOR IN AGRICULTURAL, BOTANY.

EXT.P.12: COPY OF THE REPLY NO. GA/C2/49233/90/L. DIS. DTD. 29/11/1990 OF THE R.1. ADDRESSED TO THE PROFESSOR, R.R.S. MONCOMBU, COPY TO PETITIONER.

EXT.P.13: COPY OF THE REPRESENTATION DTD. 17/09/1991 SUBMITTED BY THE PETITIONER TO THE HONOURABLE MINISTER OF AGRICULTURE.

EXT.P.14: COPY OF THE JUDGMENT IN O.P. NO. 7577/91 DTD. 21/06/1996 BEFORE THE HONOURABLE HIGH COURT OF KERALA, ERNAKULAM.

W.P.(C). NO.27266/2003-U:

EXT.P.15: COPY OF THE REPRESENTATION DTD. 02/07/1996 SUBMITED BY THE PETITIONER TO THE VICE CHANCELLOR, KERALA AGRICULTURAL UNIVERSITY, THRISSUR.

EXT.P.16: COPY OF THE NOTE CIRCULATED BY THE EXECUTIVE COMMITTEE MEMBERS, ITEM NO. 135/96 BY THE UNIVERSITY, SUBSEQUENT TO THE DECISION IN O.P. NO. 7517/91.

EXT.P.17: COPY OF THE ORDER NO. GA/C2/8118/96 DTD. 13/11/1996 ISSUED BY THE FIRST RESPONDENT TO THE PETITIONER.

EXT.P.18: COPY OF THE JUDGMENT IN O.P. NO. 18280/1996 DTD. 23/02/1999 BEFORE THE HONOURABLE HIGH COURT OF KERALA, ERNAKULAM.

EXT.P.19: COPY OF THE ORDER NO. GA/C2/8418/96 DTD. 25/06/99 ISSUED BY THE R.1. TO THE PETITIONER.

EXT.P.20: COPY OF THE ORDER NO. GA/C2/8418/96 DTD. 11/08/2000 ISSUED BY R.1. TO THE PETITIONER.

EXT.P.21: COPY OF THE REPRESENTATION DTD. 03/05/2001 SUBMITTED BY THE PETITIONER TO THE R.1.

EXT.P.22: COPY OF THE ORDER NO. GA/C2/11265/2003 DTD. 12/08/2003 ISSUED BY THE R.1. TO THE PETITIONER.

EXT.P.23: COPY OF THE ORDER NO. PEN. B1/22740/01 (II) DTD. 08/08/2007 ISSUED BY THE KERALA AGRICULTURAL UNIVERSITY, FINANCE & ACCOUNTS WING.

EXT.P.24: COPY OF THE ORDER NO. PEN. B1/22740/01 (I) DTD. 08/08/2007 ISSUED BY THE KERALA AGRICULTURAL UNIVERSITY, FINANCE & ACCOUNTS WING.

//TRUE COPY//

prv.

S. SIRI JAGAN, J.

W.P.(C)No. 27266 OF 2003

Dated this the 25th day of October, 2007

JUDGMENT

The petitioner in this writ petition retired from service of the Kerala Agricultural University as a Professor on attaining 60 years of age. There is a long history leading up to her becoming a Professor and continuing up to 60 years of age. I do not think it necessary to detail all those facts in this writ petition since it is not necessary for the disposal of the writ petition, in the nature of the order I propose to pass.

2. The petitioner was originally employed in the Central Marine Fisheries Research Institute. Later on in the Kerala Agricultural University there arose a post of Junior Statistician. This post was to be filled up from among internal candidates. Inspite of two notifications, the University could not get internal qualified candidates. Therefore the post was notified for direct recruitment. The petitioner applied for that post. She was rank No.1 and she was appointed as such. Later on the petitioner raised a claim that she is entitled to be treated as a Teacher and

re-designated as an Assistant Professor. However, the minimum qualification prescribed for Assistant Professor was second class Master's degree. The petitioner possessed only 3rd class Master's degree. The petitioner sought relaxation in qualification so as to re-designate the petitioner as Assistant Professor. This was not originally acceded to.

3. The petitioner filed O.P.No.7577/1991 specifically stating that in respect of certain other named employees, the University had granted relaxation in qualification for the purpose of re-designation as Assistant Professor and therefore she is also entitled to the same benefit. Noticing the fact that the University had not specifically controverted these facts, this Court by Ext.P14 judgment directed the University to reconsider the matter in the light of the said contention of the petitioner that similarly placed employees have been given the benefit of relaxation in qualification. Inspite of the same, the petitioner's claim was rejected. The petitioner again approached this Court by filing O.P.No.18280/96. At the time of hearing that original petition, the learned counsel for the

University submitted that the University is withdrawing the impugned order and the petitioner's case would be considered appropriately in the light of judgment in O.P.No.7577/1991. Subsequently, Ext.P20 order was passed by the University accepting all her contentions. It is to be noted here that in the meanwhile the petitioner had already retired from service on attaining the age of 55 years since she had not been considered as holding a teaching post. By Ext.P20, the petitioner's claim for being inducted into a teaching post was accepted. She was directed to be reinstated in service and given all consequential promotions. Accordingly, she was given all promotions as Assistant Professor, Associate Professor and Professor with effect from the date those promotions became due to her, in accordance with the career advancement programme. Accordingly, she continued as professor till the age of 60 years and retired from service . After she retired from service, the University again took up the matter by Ext.P22 cancelling Ext.P20 and taking away all the benefits given to her as per Ext.P20, except the emoluments

she received up to the age of 60. Ext.P22 is under challenge before me.

4. I have considered the rival contentions of the petitioner as well as the University. The University has not chosen to file any counter affidavit in the matter justifying Ext.P22. When Ext.P20 order has been passed granting the petitioner benefits as a teacher, there should be some reason as to why the benefits granted by Ext.P20 should be taken away from her. That reason is conspicuously absent in Ext.P22. All what has been stated therein is that the whole matter was referred to the standing counsel of the University who has rendered his opinion that the decision taken by the Executive Committee to treat her appointment as a Teacher was without authority of law and hence invalid. I am of opinion that the least the University could have done is to state in Ext.P22 on what factual or legal basis the standing counsel for the University had rendered that opinion. As I have stated, as Ext.P22 stands now, it does not contain any reason whatsoever as to why Ext.P20 should be cancelled. They have not also

chosen to justify Ext.P22 by filing a counter affidavit. Therefore, I am satisfied that Ext.P22 is liable to be quashed. I do so. The petitioner would be entitled to all consequential benefits arising therefrom.

The writ petition is allowed as above.

S. SIRI JAGAN, JUDGE

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